

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0187

## HOUSE TRANSPORTATION ENGROSSED NO. **SB 17** - 2/19/2009

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain driver licensing provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-12-1 be amended to read as follows:

4 32-12-1. For purposes of this chapter, terms are defined in § 32-14-1. Terms used in this  
5 chapter mean:

6 (1) "Driver license," a document issued by a state or jurisdiction to an individual that  
7 authorizes the individual to drive a motor vehicle, including an operator's license,  
8 motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's  
9 permit, instruction permit, motorcycle instruction permit, and temporary permit; ~~and~~

10 (2) "Operator's license," any document issued by a state or jurisdiction to an individual  
11 that bestows full driving privileges upon the individual; and

12 (3) "Principal residence," the location where a person currently resides even if at a  
13 temporary address.

14 Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 For the purposes of this chapter, the term, lawful status, means that a person is a citizen or  
3 national of the United States or is an alien who:

- 4 (1) Is lawfully admitted for permanent or temporary residence in the United States;
- 5 (2) Has conditional permanent resident status in the United States;
- 6 (3) Has an approved application for asylum in the United States or has entered into the  
7 United States in refugee status;
- 8 (4) Has a valid nonimmigrant status in the United States;
- 9 (5) Has a pending application for asylum in the United States;
- 10 (6) Has a pending or approved application for temporary protected status (TPS) in the  
11 United States;
- 12 (7) Has approved deferred action status; or
- 13 (8) Has a pending application for lawful permanent residence (LPR) or conditional  
14 permanent resident status.

15 Section 3. That § 32-12-3.1 be amended to read as follows:

16 32-12-3.1. Any applicant ~~under~~ as provided for in this chapter shall, on making application  
17 for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle  
18 restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver  
19 identification card, present to the examiner a one of the following documents in order to  
20 establish identity and date of birth:

- 21 (1) A ~~A~~ certified copy of a United States birth certificate ~~issued in or by a city, county, or~~  
22 ~~state, a tribal identification card that provides evidence that a certified birth certificate~~  
23 ~~issued by a city, county, or state was used to obtain the tribal identification card and~~  
24 ~~is in a form and content acceptable to the Department of Public Safety, a~~

1 ~~naturalization and immigration record authorizing the applicant's presence in the~~  
2 ~~United States, or a~~ filed with the state office of vital records or equivalent agency;

3 (2) A consular report of birth abroad (United States Department of State form FS-240,  
4 DS-1350, or FS-545;

5 (3) A valid, unexpired permanent resident card (form I-551 issued by the United States  
6 Department of Homeland Security or Immigration and Naturalization Services);

7 (4) An unexpired employment authorization document issued by the United States  
8 Department of Homeland Security (form I-766 or I-688B);

9 (5) An unexpired foreign passport with a valid, unexpired United States visa affixed  
10 accompanied by the approved I-94 form documenting the applicant's most recent  
11 entrance into the United States;

12 (6) A certificate of naturalization issued by the United States Department of Homeland  
13 Security (form N-550 or N-570);

14 (7) A certificate of citizenship form N-560 or N-561 issued by the United States  
15 Department of Homeland Security;

16 (8) A valid driver license issued by this state or another state that meets the requirements  
17 of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal  
18 agencies for official purposes;

19 (9) Any other document designated by the Department of Homeland Security by  
20 publication in the Federal Register; or

21 (10) A valid, unexpired United States passport.

22 ~~If any of the~~ For all ~~documentation offered by the applicant includes a naturalization and~~  
23 ~~immigration record or has been issued by a foreign country or jurisdiction to provide evidence~~  
24 of identity, date of birth, social security number or nonwork authorized status, address of

1 principal residence, and lawful status, the department shall make a copy of the documentation  
2 and shall retain the copy for ~~one year from the date the copy was made or until the expiration~~  
3 ~~of any license, permit, or identification card issued in reliance upon the documentation,~~  
4 ~~whichever is later~~ ten years. All documents retained under this section are confidential. The  
5 examiner may, as part of a documented exceptions process, accept other evidence of ~~birth~~  
6 identity and date of birth of any applicant and lawful status of any United States citizen only if  
7 the examiner is satisfied that the applicant cannot, for good reason beyond the applicant's  
8 control, produce such primary documents. The examiner shall record the acceptance of any  
9 alternative document under the exceptions process. The Department of Public Safety may not  
10 require new evidence of birth at the time an application is made by a person holding an  
11 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
12 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
13 card, if that person's driver license or nondriver identification card meets the requirements of  
14 6 C.F.R. Part 37 as amended through January 1, 2009, is acceptable by federal agencies for  
15 official purposes, and is turned in to the department with the application. Any person who  
16 obtains a driver license or nondriver identification card pursuant to this section fraudulently or  
17 by use of a fraudulently obtained document is guilty of a ~~Class 2~~ Class 1 misdemeanor.

18 Section 4. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 A license issued to an applicant who is not a citizen or a legal permanent resident of the  
21 United States expires coterminously with the applicant's authorized duration of stay or the  
22 otherwise applicable expiration date of the license issued under the provisions of this chapter,  
23 whichever occurs first.

24 Section 5. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any applicant under the provisions of this chapter shall, on making application for an  
3 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
4 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
5 card, present to the examiner evidence of lawful status in the United States. If the applicant has  
6 presented one of the identity documents listed under subdivision 32-12-3.1(1), (2), (3), (4), (5),  
7 (6), (7), or (10), the document is satisfactory evidence of lawful status. If the applicant presents  
8 the identity documents listed under subdivision 32-12-3.1(8) or (9), the document is not  
9 satisfactory evidence of lawful status. Such applicant shall also present a second document from  
10 subdivision 32-12-3.1(1), (2), (3), (4), (5), (6), (7), or (10) or documentation issued by the  
11 United States Department of Homeland Security or other federal agencies demonstrating lawful  
12 status as determined by the United States Citizenship and Immigration Services through the  
13 systematic alien verification for entitlements system or alternate method approved by the United  
14 States Department of Homeland Security.

15 Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Any applicant under the provisions of this chapter who has been assigned a social security  
18 account number shall, on making application for an operator's license, motorcycle operator's  
19 license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit,  
20 motorcycle instruction permit, or nondriver identification card, present to the examiner a Social  
21 Security Administration account number card. If a Social Security Administration account  
22 number card is not available, the applicant may present any of the following documents bearing  
23 the applicant's social security number:

24 (1) A W-2 form;

(2) A SSA-1099 form;

(3) A non-SSA-1099 form; or

(4) A pay stub with the applicant's name and social security number.

Any applicant lawfully present in a nonimmigrant status who does not present evidence of a social security account number shall present to the examiner documentation which demonstrates a nonwork authorized status.

Section 7. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

Any applicant under the provisions of this chapter shall, on making application for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, present to the examiner at least two documents containing the applicant's name and address of principal residence in order to establish the applicant's address of principal residence.

Section 8. That § 32-12-17.2 be amended to read as follows:

32-12-17.2. The Department of Public Safety may issue upon application a nondriver identification card, similar in form but distinguishable in color from driver licenses, to any resident of South Dakota. Each applicant for a nondriver identification card shall, as part of the application, present to the department a certified copy of a certificate of birth or another form of evidence of date of birth and identity as allowed by § 32-12-3.1. The fee for an original or reissued nondriver identification card is the same as prescribed for an original driver license in § 32-12-16. Each nondriver identification card expires on the holder's birthday in the fifth year following the issuance of the nondriver identification card, or on the ~~same date as the expiration date on the valid documents authorizing the applicant's presence in the United States in~~ accordance with § 32-12-3.1 date of expiration of the applicant's authorized stay in the United

1 States as determined by the systematic alien verification for entitlements system or alternate  
2 method approved by the United States Department of Homeland Security or, if there is no  
3 expiration date, for a period no longer than one year from date of issuance, whichever occurs  
4 first. Each nondriver identification card is renewable one hundred eighty days before its  
5 expiration upon application and payment of the required fee. Any nondriver identification card  
6 renewed before its expiration expires five years after the holder's ensuing birthday, or on the  
7 ~~same date as the expiration date on the valid documents authorizing the applicant's presence in~~  
8 ~~the United States in accordance with § 32-12-3.1~~ date of expiration of the applicant's authorized  
9 stay in the United States as determined by the systematic alien verification for entitlements  
10 system or alternate method approved by the United States Department of Homeland Security  
11 or, if there is no expiration date, for a period no longer than one year from date of issuance,  
12 whichever occurs first. The nondriver identification card shall bear an indication if the holder  
13 has a living will pursuant to chapter 34-12D or a durable power of attorney for health care  
14 pursuant to chapter 59-7. Any nondriver identification card renewed during the thirty-day period  
15 following the date of expiration expires five years from the holder's previous birthday, or on the  
16 ~~same date as the expiration date on the valid documents authorizing the holder's presence in the~~  
17 ~~United States in accordance with § 32-12-3.1~~ date of expiration of the applicant's authorized  
18 stay in the United States as determined by the systematic alien verification for entitlements  
19 system or alternate method approved by the United States Department of Homeland Security  
20 or, if there is no expiration date, for a period no longer than one year from date of issuance,  
21 whichever occurs first.

22 Section 9. That § 32-12-17.10 be amended to read as follows:

23 32-12-17.10. An operator's license, motorcycle operator's license, restricted minor's permit,  
24 motorcycle restricted minor's permit, instruction permit, and motorcycle instruction permit shall

1 bear a distinguishing number assigned to the licensee, the full legal name or any name lawfully  
2 taken, date of birth, gender, principal residence address, an indication if the licensee is a donor  
3 pursuant to chapter 34-26, an indication if the licensee has a living will pursuant to chapter 34-  
4 12D or a durable power of attorney for health care pursuant to chapter 59-7, ~~a color photo, and~~  
5 full facial digital photograph, a brief description of the licensee, ~~and~~ the licensee's signature,  
6 security features designed to deter forgery and counterfeiting, to promote an adequate level of  
7 confidence in the authenticity of the cards, and to facilitate detection of fraudulent cards, the  
8 issue date of the license, the expiration date of the license, an indication that the license is  
9 temporary or limited term if the holder has temporary lawful status in the United States, the  
10 name of this state, and a security marking approved by the United States Department of  
11 Homeland Security reflecting the level of compliance with 6 C.F.R. Part 37 as amended through  
12 January 1, 2009. The department shall indicate upon each license the general class of vehicles  
13 that the licensee may drive. ~~If a barcode, or other means by which information may be retrieved~~  
14 ~~electronically, is placed on the license, the data field may contain the information printed on the~~  
15 ~~license.~~ The back of the license shall contain a barcode. The department shall include in the  
16 barcode the name of this state, the information printed on the license, the card design revision  
17 date indicating the most recent change or modification to the visible format of the card, and an  
18 indicator if the license is temporary or limited term. No barcode, or other means by which  
19 information may be retrieved electronically, may contain the licensee's social security number.

20 Section 10. That § 32-12-42 be amended to read as follows:

21 32-12-42. Each operator's license, motorcycle operator's license, restricted minor's permit,  
22 or motorcycle restricted minor's permit expires on the licensee's birthday in the fifth year  
23 following the issuance of the license, or on the ~~same date as the expiration date on the valid~~  
24 ~~documents authorizing the applicant's presence in the United States in accordance with § 32-12-~~



1 ~~3.1~~ date of expiration of the applicant's authorized stay in the United States as determined by  
2 the systematic alien verification for entitlements system or alternate method approved by the  
3 United States Department of Homeland Security or, if there is no expiration date, for a period  
4 no longer than one year from date of issuance, whichever occurs first. Each operator's license,  
5 motorcycle operator's license, restricted minor's permit, or motorcycle restricted minor's permit  
6 is renewable one hundred eighty days before its expiration upon application and payment of the  
7 required fee. Any license renewed before its expiration expires five years after the licensee's  
8 ensuing birthday, or on the ~~same date as the expiration date on the valid documents authorizing~~  
9 ~~the applicant's presence in the United States in accordance with § 32-12-3.1~~ date of expiration  
10 of the applicant's authorized stay in the United States as determined by the systematic alien  
11 verification for entitlements system or alternate method approved by the United States  
12 Department of Homeland Security or, if there is no expiration date, for a period no longer than  
13 one year from date of issuance, whichever occurs first. However, the department shall waive the  
14 knowledge and driving tests for renewal, if the licensee applies and makes payment of the  
15 required fee within thirty days following the expiration date. If the licensee applies and makes  
16 payment of the required fee thirty-one or more days after the expiration date of the license, the  
17 licensee shall take the knowledge test as required by § 32-12-4. Any license renewed during the  
18 thirty-day period following the date of expiration expires five years from the licensee's previous  
19 birthday, or on the ~~same date as the expiration date on the valid documents authorizing the~~  
20 ~~applicant's presence in the United States in accordance with § 32-12-3.1~~ date of expiration of  
21 the applicant's authorized stay in the United States as determined by the systematic alien  
22 verification for entitlements system or alternate method approved by the United States  
23 Department of Homeland Security or, if there is no expiration date, for a period no longer than  
24 one year from date of issuance, whichever occurs first.

Section 11. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

A person may hold a South Dakota driver license and a South Dakota nondriver identification card. However, the person can only have one driver license or nondriver identification card that is acceptable by federal agencies for federal purposes. If a person holds both a driver license and a nondriver identification card, one of the documents shall be clearly marked as not acceptable by federal agencies for federal purposes.

Section 12. That chapter 32-12A be amended by adding thereto a NEW SECTION to read as follows:

Any applicant under the provisions of this chapter shall, on making application for a commercial driver license, present to the examiner at least two documents containing the applicant's name and address of principal residence as defined in § 32-12-1 in order to establish the applicant's address of principal residence.

Section 13. That § 32-12A-20 be amended to read as follows:

32-12A-20. The commercial driver license shall be marked "Commercial Driver License," shall be, to the maximum extent practicable, tamper proof, and shall include the following information:

- (1) The full legal name, residential address of principal residence, and mailing addresses  
address of the licensee;
- (2) ~~The licensee's color photograph~~ A full facial digital photograph of the licensee;
- (3) A distinguishing number assigned to the licensee;
- ~~(3)~~(4) A physical description of the licensee, including sex, height, weight, and eye color;
- ~~(4)~~(5) Date of birth;
- ~~(5)~~(6) An indication if the licensee is a donor pursuant to chapter 34-26;

~~(6)~~(7) The licensee's signature;

~~(7)~~(8) The class of commercial motor vehicle or vehicles which the licensee is authorized to operate, including any endorsements or restrictions;

~~(8)~~(9) The name of this state; ~~and~~

~~(9)~~(10) The dates between which the commercial driver license is valid;

(11) A barcode on the back of the license containing the name of this state, the information printed on the license, and the card design revision date indicating the most recent change or modification to the visible format of the card; and

(12) A security marking approved by the United States Department of Homeland Security reflecting the level of compliance with 6 C.F.R. Part 37 as amended through January 1, 2009.

Section 14. That § 32-12A-30 be amended to read as follows:

32-12A-30. A commercial driver license issued pursuant to this chapter, expires on the licensee's birthday in the fifth year following the issuance of the license. Any nonresident commercial driver license expires on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance. However, no nonresident commercial driver license may expire on a date later than the licensee's birthday in the fifth year following the issuance of the license.

Section 15. This Act is effective December 31, 2009.